

Message Text

SECRET

PAGE 01 MANILA 04294 151442Z

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ACTION DLOS-06

INFO OCT-01 EA-11 ISO-00 L-03 IO-14 SS-20 INR-10 EUR-25

RSC-01 DRC-01 COA-02 /094 W
----- 072862

P 150956Z APR 74

FM AMEMBASSY MANILA

TO SECSTATE WASHDC PRIORITY 2681

INFO AMEMBASSY JAKARTA

S E C R E T MANILA 4294

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ALSO PASS EA/PHIL FOR AMBASSADOR SULLIVAN

E.O. 11652: GDS
TAGS& 0?94, RP
SUBJECT: LOS: PHILIPPINE PERSPECTIVE

REF: STATE 073370

SUMMARY: US-INDONESIAN TALKS IN JAKARTA ON ARCHIPELAGO CONCEPT
PROVIDE INTERESTING COUNTERPOINT TO POSSIBLE PHILIPPINE VIEWS.
ON BASIS OUR UNDERSTANDING GOP VIEWS, COMMENTS KEYED TO
DEPARTMENT MESSAGE ARE SUBMITTED. MAIN CONCLUSION THAT WOULD SEEM
TO EMERGE FROM THIS HIGHLY TENTATIVE COMPARISON IS THAT GOP
IN LIGHT OF RECENT CONCERNS WOULD PLACE RELATIVELY HIGH EMPHASIS
ON SECURITY AND WOULD CONSEQUENTLY NOT BE SO AMENABLE TO
UNIMPEDED PASSAGE THROUGH PHILIPPINE ARCHIPELAGO. END SUMMARY.

1. EMBASSY APPRECIATES OPPORTUNITY TO SEE DETAILED ACCOUNT OF
US-INDONESIAN TALKS ON LAW OF THE SEA. ON BASIS OF OUR UNDER-
STANDING OF PHILIPPINE VIEW TOWARDS VARIOUS ITEMS COVERED IN
TALKS, WE HAVE DRAWN TOGETHER FOLLOWING COMMENTARY KEYED TO
THE RELEVANT PARAGRAPHS.

2. WITH REFERENCE TO PARAGRAPH 8.A.(1), (2), (3), OF REFTEL WE
ANTICIPATE NO DIFFICULTY, WITH POSSIBLE EXCEPTION OF 80 MILE
SECRET

SECRET

PAGE 02 MANILA 04294 151442Z

NAUTICAL BASELINE. THE DEFINITION OF THE ARCHIPELAGIC STATE IS

QUITE SIMILAR TO THAT USED BY THE PHILIPPINES. THE LAND/WATER RATIO OF ONE TO FIVE IS ACCEPTABLE TO THE PHILIPPINES. THE MAXIMUM BASELINE LENGTH OF 80 NAUTICAL MILES WOULD NOT APPEAR TO CAUSE ANY DIFFICULTY FOR PHILIPPINE ARCHIPELAGO EXCEPT, PERHAPS, IN THE MORO GULF.

3. OUR MAPS SHOW NO ISLANDS IN MORO GULF. SHOULD 80 MILE LIMIT ON BASELINE IN EFFECT OPEN UP GULF AS PART OF HIGH SEA, RESULT WOULD CAUSE VERY SERIOUS PROBLEM FOR GOP. MUSLIM PROVINCES WHICH FACE ONTO GULF HAVE BEEN LOCUS OF HEAVY FIGHTING AGAINST GOVERNMENT FOR PAST FEW YEARS. ALTHOUGH THE PHILIPPINE NAVY HAS NOT BEEN VERY SUCCESSFUL IN PATROLLING GULF COAST, IT IS RELIABLY BELIEVED THAT COAST IS ONE OF THE LANDING AREAS FOR WEAPONS, AMMUNITION AND MEN TO FIGHT AGAINST PHILIPPINE ARMED FORCES, WHICH ASSISTANCE HAS BEEN PROVIDED AT LEAST WITH THE FACILITATION OF SABAH AND POSSIBLY WITH THE ACTIVE INVOLVEMENT OF SUCH STATES AS MALAYSIA AND LIBYA.

4. WITH REFERENCE TO PARAGRAPH 8.B., THIS IS, OF COURSE, ENTIRELY NEW CONCEPT TO WHICH THE PHILIPPINES HAS NOT YET ADDRESSED ITSELF. THE GOVERNMENT HAS INDICATED ON OCCASION THAT IT WOULD LIKE TO FIND SOME KIND OF ACCEPTABLE COMPROMISE BETWEEN UNIMPEDED PASSAGE AND INNOCENT PASSAGE. FORMULATION GIVEN TO INDONESIANS, HOWEVER, WOULD CERTAINLY CAUSE PROBLEMS FOR PHILIPPINES. THE SOLICITOR GENERAL, IN DISCUSSING QUESTION OF PASSAGE THROUGH STRAITS WITH THE EMBASSY, MADE VERY SPECIFIC DISTINCTION BETWEEN SUNDA STRAIT IN INDONESIA WHICH HE CONSIDERED DIRECTLY CONNECTED TWO HIGH SEAS AREAS AND, FOR EXAMPLE, SAN BERNARDINO STRAIT WHICH HE REGARDED AS SIMPLY FIRST POINT IN PASSAGE THROUGH INTERNAL WATERS OF PHILIPPINES INVOLVING SIBUYAN SEA AND VERDE ISLAND PASSAGE BEFORE ARRIVAL AT NEXT HIGH SEAS POINT. IF HIS DISTINCTION WERE TO BE FOLLOWED, IT WOULD TEND TO RULE OUT UNIMPEDED PASSAGE THROUGH ANY OF INTERNAL SEAS OF THE MAIN PHILIPPINE ARCHIPELAGO AND MIGHT ALSO RULE OUT VARIOUS TRADITIONAL SEA LANES THROUGH SULU SEA EXCEPT AT BALABAC STRAITS AND PASSAGE AROUND EASTERN CORNER OF SABAH. SOLICITOR GENERAL BASED HIS DISTINCTION ON QUESTION OF SECURITY OF PHILIPPINE ARCHIPELAGO.

5. VARIOUS DETAILS PROPOSED CONCERNING UNIMPEDED PASSAGE
SECRET

SECRET

PAGE 03 MANILA 04294 151442Z

CONTAINED 8.B(1) AND (2) WOULD SEEM TO BE UNEXCEPTIONABLE BUT ACADEMIC IN LIGHT GOP'S BASIC OBJECTION TO UNIMPEDED PASSAGE BECAUSE OF SECURITY PROBLEM. PARAGRAPH 8.B. (3) WOULD NOT IN OUR VIEW APPEAR TO GOP AS ACCEPTABLE TRADE OFF IN VIEW OF ITS SECURITY CONCERNS. 8.?(4A), (5), (6) SHOULD POSE NO PARTICULAR PROBLEM TO GOP SINCE IT HAS BEEN THINKING ALONG LINES OF SEA LANES AND HAS INCLUDED THAT CONCEPT IN DRAFT PROPOSAL WITH INDONESIA, FIJI AND MAURITIUS ON ARCHIPDAAGO CONCEPT. WITH REFERENCE TO

PARAGRAPH 8.B.(4B), HOWEVER, WE SUSPECT GOP MAY WELL HAVE TROUBLE WITH WIDTH OF PROPOSED PASSAGE. SWATH OF 100 MILE PASSAGES CUTTING ACROSS SULU SEA (OUR WORLD SHIPPING LANES MAP INDICATES FOUR SUCY PASSAGES) WOULD ALMOST CONVERT SULU SEA INTO HIGH SEAS.

6. IT WOULD BE HELPFUL TO KNOW WHAT DEPARTMENT DEFINES AS "NORMAL PASSAGE ROUTES" THROUGH PHILIPPINES. GOP IS AWARE OF SEA LANES OUTLINED ON "WORLD SHIPPING LANES" MAP PREPARED BY DEPT'S GEOGRAPHER BUT UNDOUBTEDLY HAS DRAWN UP ITS OWN STANDARDS. TO ASSESS POSSIBLE GOP POSITION ON SEA LANES FURTHER, WOULD APPRECIATE DESCRIPTION OF SEA LANES WE WOULD LIKE TO PRESERVE IN THE PHILIPPINES.

7. WE HAVE NOT RECEIVED LATEST DEPARTMENTAL THINKING ON FISHERIES. ACCORDING TO 1972 U.S. DRAFT ON FISHERIES PROVIDED USIS, GOP WOULD EXPECT TO HAVE PREFERENTIAL RIGHTS TO ALL LIVING (COASTAL AND ANADRAMOUS) RESOURCES OFF ITS COAST BEYOND THE TERRITORIAL SEA. TAKEN LITERALLY IN RELATION TO OUR PROPOSED RECOGNITION OF ARCHIPELAGO CONCEPT, GOP WOULD PRESUMABLY HAVE ABSOLUTE SOVEREIGN RIGHTS WITHIN AGREED BASE POINTS OF PHILIPPINE ARCHIPELAGO AND SURROUNDING TERRITORIAL SEA, WITH PREFERENTIAL RIGHTS IN SEAS BEYOND TERRITORIAL SEA. THIS WOULD BE AT EXPENSE OF TAIWAN, JAPAN, INDONESIA AND OTHERS. HAVE WE MORE RECENT FISHERIES POSITION?

8. COMMENT: IF INDONESIA DOES ATTEMPT TO TALK TO GOP ALONG LINES OF US-INDONESIAN DISCUSSIONS IN JAKARTA ON ARCHIPELAGO CONCEPT, WE ANTICIPATE THAT IT WILL HAVE VERY HARD ROW TO HOE. GOP WOULD NO DOUBT BE DELIGHTED TO HAVE CONCEPT OF ARCHIPELAGO ACCEPTED WITH ALL THE PROPRIETARY RIGHTS IT THEREBY ACQUIRES OVER LIVING AND NON-LIVING RESOURCES, AND OTHER USES OF PHILIPPINE WATERS. IT WOULD ALSO BE DELIGHTED WITH RECOGNITION OF ITS PROPRIETARY RIGHTS IN THE PROPOSED COASTAL ZONE ECONOMIC AREA

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SECRET

PAGE 04 MANILA 04294 151442Z

EXTENDING FROM THE BASE POINTS OF THE PHILIPPINE ARCHIPELAGO. BUT THESE MAY WELL BE GAINS THAT PHILIPPINES WOULD EXPECT TO COME HER WAY ANYWAY AT CARACAS CONFERENCE OR LATER IN KEEPING WITH EXPANDING PROPRIETARY TREND OF COASTAL STATES INCLUDING U.S. IMPORTANT AS THEY ARE IN STAKING OUT LONG RANGE PHILIPPINE ECONOMIC INTERESTS, HOWEVER, THEY ARE NOT EXACTLY A DIRECT QUID PRO QUO FOR MORE IMMEDIATE PHILIPPINE CONCERN WITH SECURITY. MUSLIM FIGHTING, SPRATLY ISLAND IMBROGLIOS AND SUSPECTED LINKS BETWEEN MAOIST-ORIENTED NEW PEOPLES ARMY AND PRC HAVE HEIGHTENED SENSITIVITY OF MARTIAL LAW REGIME TO FREE PASSAGE OF VESSELS THROUGH WHAT IT REGARDS AS PHILIPPINE INTERNAL WATERS. IN CONNECTION THIS CONCERN WITH SECURITY, EMBASSY WOULD LIKE TO DRAW TO DEPT'S ATTENTION A GOP BRIEFING ON "THE INTRUSION OF FOREIGN VESSELS IN PHILIPPINE TERRITORIAL WATERS" WHICH BEING SUBMITTED BY AIRGRAM.

9. TO CONTINUE TO ASSESS POSSIBLE GOP RESPONSE TO INDONESIANS, EMBASSY WOULD APPRECIATE ANY ELABORATION DEPT CAN PROVIDE ON POINTS REFERRED TO ABOVE. WE DO NOT REPEAT NOT INTEND TO TRY AND UPSTAGE INDONESIANS ON THIS ISSUE BUT ON OTHER HAND WE DO EXPECT LOS ISSUES WILL COME UP BETWEEN GOP AND EMBASSY. GOP LOS TEAM IS BACK FROM NAIROBI AND WE WILL HAVE TO RAISE WITH ITS MEMBERS QUESTIONS OF PROVISIONAL REGIME AND DISPUTE SETTLEMENT. SHOULD GOP LEAD DISCUSSION FURTHER AFIELD, WE WOULD LIKE TO BE ALERT TO ALL RELEVANT DEPARTMENTAL CONSIDERATIONS ON ARCHIPELAGO CONCEPT.

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Message Attributes

Automatic Decaptoning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, POLICIES, TERRITORIAL WATERS, MEETING REPORTS, DIPLOMATIC DISCUSSIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 15 APR 1974
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974MANILA04294
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740086-0745
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740442/aaaabiyi.tel
Line Count: 181
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: SECRET
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: SECRET
Previous Handling Restrictions: STADIS
Reference: STATE 073370
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 24 JUL 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <24 JUL 2002 by martinml>; APPROVED <26 MAR 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: PHILIPPINE PERSPECTIVE
TAGS: PBOR, US, RP
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005